

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on January 12, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrupf (R)

Members Excused: Rep. Debby Barrett, Vice Chairman (R)
Rep. Norma Bixby (D)
Rep. Frank Smith (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 74, 1/9/2001; HB 100,
1/9/2001

HEARING ON HB 74

Sponsor: REPRESENTATIVE EDITH CLARK, HD 88, SWEETGRASS

Proponents: Kathy McGowan, Fish and Game Wardens
Jeff Hagener, Fish, Wildlife and Parks
Terry Teichron, Public Employees Retirement Board
Jack Wiseman, Department of Livestock
Mike O'Connor, Montana Public Employees Retirement
Association
Marwan Saba, Montana State Prison
Dave Harris, Montana State Prison
Tom Bilodeau, MEA-MFT
Terry Minow, MEA-MFT
Morris McLees, Montana State University Police
Department
Mark Anderson, Montana Game Warden
Mick Chesterfield, Fish & Game Warden
Nye Howey, Department of Livestock

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 2.2}

REPRESENTATIVE EDITH CLARK, HD 88, SWEETGRASS, stated this bill revises service retirement benefits for members from 2% to 2.5% of the members final average salary for each year of service credit. The Game Wardens' and Peace Officers' system is the only retirement plan with a 2% formula. The Game Wardens' retirement plan was established in 1963. In 1997, the legislature expanded the membership to Game Wardens, Correction Officers, Probation and Parole Officers, Livestock Inspectors, Motor Vehicle Inspectors, Motor Carrier Officers, and University Police. A breakdown of each membership was handed out. **EXHIBIT(sth09a01)** **EXHIBIT(sth09a02)** The Passage of this legislation will require no increase in contribution, however the passage of this legislation and a 3% Guaranteed Annual Benefit Adjustment (GABA) will give a 1% to 1½% increase in the members contributions. All members have been contacted regarding this legislation and none have responded negatively.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 5.1}

Kathy McGowan, Fish and Game Wardens, stated all the people who worked together on this legislation have worked very hard for the past two years. They have worked with all the appropriate people and committees, and met all the requirements needed to pass this bill.

Jeff Hagener, Director of Fish, Wildlife and Parks submitted written testimony **EXHIBIT**(sth09a03)

Terry Teichrow, Chairman of the Public Employees Retirement Board, stated for many years they have been trying to bring together all the law enforcement agency retirement programs into one program. It would be great if retirement systems were all in one system, but this bill will at least bring their administrative closer and makes tracking easier.

Jack Wiseman, Department of Livestock stated "Department of Livestock would like to go on record as being totally in support of this bill".

Mike O'Connor, Montana Public Employees Retirement Administration said the board is in support of this bill. This bill is for all state employees who are Peace Officers. The total membership in the system is 494 members and 82 benefit recipients. The State Administration Public Retirement Interim Committee adopted a policy on this proposal. **Mr. O'Connor** stated he would like to give a quote from the Interim Committee. The statement was "to accept a proposal to raise the Game Wardens' and Piece Officers' Retirement System percentage to 2½%, to bring it to parity with similar systems", stipulating, "if the costs cannot be absorbed, employee and employer contribution would be made to make the system whole".

Marwan Saba, Montana State Prison, stated he is in support of the bill.

Dave Harris, Montana State Prison, stated he supports the bill.

Tom Bilodeau, MEA-MFT, stated they support this bill. The bill brings the last group of people who work in the protective service into a 2½% pension formula. This will bring the systems into compliance with the other protective services.

Morris McLees, Montana State University Police Department, stated he represents 12 other officers from the department and they all support the bill.

Mark Anderson, Montana State Game Wardens Association, stated they support this bill.

Mick Chesterfield, Fish and Game Wardens, commented he was one of the committee members the association put together to work toward the bill and would appreciate the committee's support on the bill.

Nye Howey, Department of Livestock in Bozeman, stated they are in support of the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 16.8}

REPRESENTATIVE HEDGES asked if the 2½% increase would retroactively adjust the retirement benefit of the individuals who have already retired from the Game Wardens' Retirement. **Mike O'Connor** replied it would only be for individuals who retire on or before July 1, 2001.

REPRESENTATIVE DELL asked if the amount is going to be taken out of the employee's check, or will it be absorbed by the fund. **Mike O'Connor** replied, the way the bill is currently drafted, the fund would absorb the cost. **REPRESENTATIVE DELL** then asked about the unfunded liability. **Mike O'Connor** stated it increases the unfunded liability by 2.9 million dollars. The system is able to absorb that.

REPRESENTATIVE RIPLEY asked if the prison employees are part of this retirement fund. **Terry Minow** replied some of the State Correctional Officers are in the Game Wardens' System.

CHAIRMAN WALTERS stated he was told if this bill passes as it is and the Guaranteed Annual Benefit Adjustment (GABA) bill passes with a 3% increase, the fund would no longer be sound and would require the legislature to put money into the fund. He then asked how much money would have to be put in. **Mike O'Connor** replied they would have to be an additional 1½% contribution if both bills pass. The Game Wardens are willing to increase the employees' contribution to keep the fund sound.

REPRESENTATIVE MASOLO stated there are 341 members from the Department of Corrections and asked if the other individuals belong to the Public Employees Retirement System(PERS). **Mike O'Connor** replied in 1997 there was an option of retirement systems. It was an individual choice to stay in PERS or move to the Game Wardens' and Peace Officers Retirement System. All new hires after July 1, 1997 were put into the Game Wardens' System.

REPRESENTATIVE BROWN asked for clarification that if both bills pass the fund would go from nine million dollars to an even amount. **Mike O'Connor** replied there is a liability with the 3% GABA, however there is still money in there to work with. It is not going to eat up the whole nine million dollar.

REPRESENTATIVE RASER asked if there is something in the language of the bill that ensures it will be the employees that pick up the contribution and not the state. **Mike O'Connor** stated if both bills do pass, he would recommend an amendment be done to this bill to coordinate with the other bill.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 25.9}

REPRESENTATIVE CLARK, stated the bill is to give all members of the Public Safety Retirement Plan the same percentage formula. The members will fund the proposal and also agreed to fund the GAVA raise.

HEARING ON HB 100

Sponsor: **REPRESENTATIVE WILLIAM PRICE, HD 94, LEWISTOWN**

Proponents: **John McEwen, State Personnel**

Opponents: **Terry Minow, MEA-MFT**

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 25.9}

REPRESENTATIVE WILLIAM PRICE, HD 94, LEWISTOWN stated this bill is an act creating new procedures for the review of classifications of state jobs. This is an alternative process of what is currently in place.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 28.3}

John McEwen, State Personnel Division of the Department of Administration submitted written testimony **EXHIBIT**(sth09a04) and an amendment **EXHIBIT**(sth09a05)

Opponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 10.8}

Terry Minow, MEA-MFT stated they oppose the bill because it takes away state employees rights to appeal unfair classification decisions of the Department of Administration. The bill was formed from House Joint Resolution 10 and would allow the Department of Administration to become both judge and jury.

Informational Witness:

{Tape : 1; Side : B; Approx. Time Counter : 28.3}

John Andrew, Department of Labor and Industry, stated their staff staffs the Board of Personnel Appeals and if the bill does pass, the department would ask the committee to consider **John McEwen's** amendment. They do not want to be in a position of performing administrative functions by sending notices out to people.

Questions from Committee Members and Responses:

REPRESENTATIVE JENT clarified the effect of the bill is once an individual goes before the Board of Personnel Appeals, it is the final stop. **John Andrew** replied he understands that this bill will remove the Board of Personnel Appeals entirely from the review process.

REPRESENTATIVE JENT asked **John McEwen** to explain to the committee what the effect of the bill is. **John McEwen** stated the effect is the Board of Personnel Appeals will no longer be in the classification appeals process. It will be replaced with a three member panel.

REPRESENTATIVE BROWN asked, since the board will be taken out of the process, can we assume there will be less full time employees in your department. **John McEwen** stated no, they do not anticipate the number of appeals will decrease. **REPRESENTATIVE BROWN** asked when an employee is hired by the state, are they not told what classification they will have. **John McEwen** replied when an employee applies for a job in State Government, it gives the job title, job description and the pay rate. This is not what an appeal is over. When an employee is hired, they are given specific job duties and later in employment their duties may change. They may feel their job position should be reclassified because of the change in duties. The appeal is when the employee is not satisfied with the reclassification decision. There are about 1,000 reclassifications done each year within State Government.

REPRESENTATIVE LEHMAN stated nowhere in the bill does it state a challenging employee has any right to accept or refuse the three disinterested individuals on the panel. It appears the decision would be one sided. **John McEwen** replied they intend to work that out in the rules. They anticipate there will always be a list of 10-15 classifiers that the employee and the State Personnel will pick names from so both sides will have an equal opportunity, however there is still work to be done in the rule making process.

REPRESENTATIVE RASER asked **Terry Minow** to restate what her concerns are. **Terry Minow** stated they are concerned the Department of Administration will decide who is qualified to sit on the panel and the panel will have the final say in what happens to the individuals. **REPRESENTATIVE RASER** asked, if the employees had input into the training and selection of individuals on the panel, would that make the process more fair. **Terry Minow** replied the committee on the bill had broken down over the issue on how people would be trained, and compensated for training and who would provide the training. It is very difficult for state employees to give up work time to sit on this and not be compensated for it.

REPRESENTATIVE RASER asked if there could be a way the rules or the process could be changed to incorporate some of these concerns. Would there be a problem amending the bill to add language so it is very clear that both sides have the opportunity for training and release time. **John McEwen** stated he thought those issues had been worked out, however he does not see a problem occurring in allowing some employees to learn the procedure. He said he is willing to work on some of the language.

REPRESENTATIVE HEDGES asked for explanation of the roll of the Board of Personnel Appeals now, and what their role would be if this legislation passes. **John Andrew** replied currently the appeal is reviewed by the individual's Department and by the Department of Administration. If the parties cannot reach an agreement, the case then goes to the Board of Personnel Appeals for review. The board is made up of two representatives of management, two representatives of labor, and a chairperson who is an attorney. The board reviews the case and makes a decision. The board's decision is appealable into the District Court System. The way the language is currently in the bill, the Board of Appeals will have no role at all in the process. The board's role is simply just to send a letter out stating whether the person won or lost.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 5.2}

REPRESENTATIVE PRICE stated the bill just affects the appeals process. It does not deal with any other rights of the employees and their problems in the workplace. The Board of Personnel Appeals is not comfortable and does not have the history of working with that narrow sector of classifications, which is the expertise of the Department of Administration.

ADJOURNMENT

Adjournment: 9:08 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth09aad)